

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

NEDVAT KORAC,	:	
	:	Civ. No. 18-17048 (RMB)
Petitioner	:	
	:	
v.	:	MEMORANDUM ORDER
	:	
WARDEN S. YOUNG,	:	
	:	
Respondent	:	
	:	

Petitioner Nedzat Korac is a prisoner incarcerated in the Federal Correctional Institution ("FCI") in Fairton, New Jersey. On December 11, 2018, he filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241, challenging a Bureau of Prisons' custody classification. (Pet., ECF No. 1.) Petitioner submitted an IFP application form without his certified six-month prison trust account statement. (IFP Form, ECF No. 1-1.)

28 U.S.C. 1915(a)(2), requires prisoners to submit a certified copy of their inmate trust account statements for the previous six months to show financial eligibility for *in forma pauperis* status. The Court administratively terminated this action, permitting Petitioner to reopen the case by submitting an IFP application that complies with 28 U.S.C. § 1915(a)(2) or by paying the \$5.00 filing fee for this action. (Order, ECF No. 2.)

This matter comes before the Court upon Petitioner's motion to reopen. (Mot. to Reopen, ECF No. 3.) Although Petitioner entitled his motion "Motion to Reopen Case Due to Excusable Neglect in Failing to Pay the Filing Fee," Petitioner asks the court to reopen his case due to excusable neglect in using the incorrect form to file a petition under 28 U.S.C. § 2241. (Mot. to Reopen, ECF No. 1 at 2.) Petitioner then asserts jurisdiction in this case arises under Federal Rule of Civil Procedure 60(b). (*Id.*)

Federal Rule of Civil Procedure 60(b) provides relief from a judgment or order of a United States District Court. Petitioner seeks relief based on four grounds. First, he asserts that "The Federal Bureau of Prisons Has Erroneously Applied an Incorrect Base Score under its Policy No. 5100.08, Governing Inmate Security Designation and Custody Classification that Adversely Affect the Petitioner." (Pet., ECF No. 1, ¶6.) Second, Petitioner presents the issue "Has Department of Justice Through Federal Bureau of Prisons Abused its Statutory Discretion in Erroneously Applying a Six (6) Point Criminal History Score to Korac Based Upon a[n] Uncertified or Police Report Written Without Knowledge?" Petitioner's third ground for relief is "Did Federal Bureau of Prisons Abuse it's [sic] Power by Elevating "Minor" Assault to an "Aggravated Assault" by Relying on its Own Interpretation of What Does or Does Not Constitute a Crime of Violence?" Petitioner's fourth ground for relief is "Does BOP Have the Authority to

Interpret the Law by Use of Custom or Policy?"

These claims challenge an administrative agency decision not a district court judgment or order. Jurisdiction does not arise under Federal Rule of Civil Procedure 60(b). Thus, Petitioner must either pay the \$5.00 filing fee for a petition for writ of habeas corpus under 28 U.S.C. § 2241 or he must submit a properly completed IFP application, including "a certified copy of [his] trust fund account statement . . . for the 6-month period immediately preceding the filing of the complaint . . . obtained from the appropriate official of each prison at which the prisoner is or was confined.

IT IS therefore on this 9th day of January 2019,

ORDERED that the Clerk of the Court shall reopen this matter; and it is further

ORDERED that Petitioner's motion to reopen is **DENIED** without prejudice (ECF No. 3); and it is further

Ordered that the Clerk shall administratively terminate this case; and it is further

ORDERED that if Petitioner wishes to reopen this case, he shall so notify the Court, in writing addressed to the Clerk of the Court, Mitchell H. Cohen Building & U.S. Courthouse, 4th & Cooper Streets, Camden, NJ 08101, within 30 days of the date of entry of this Order; Petitioner's writing shall include either (1) a complete, signed *in forma pauperis* application, including a

certified 6-month trust account statement, or (2) the \$5.00 filing fee; and it is further

ORDERED that upon receipt of a writing from Petitioner stating that he wishes to reopen this case, and either a complete *in forma pauperis* application or payment of the filing fee, the Clerk of the Court will be directed to reopen this case; and it is finally

ORDERED that the Clerk of the Court shall serve a copy of this Order, together with a blank form "Affidavit of Poverty and Certification (HABEAS CORPUS)" upon Petitioner by regular U.S. mail.

s/Renée Marie Bumb
RENÉE MARIE BUMB
UNITED STATES DISTRICT JUDGE